

IN RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of
Linden Avenue
(10 Maple Avenue)
14th Election District
6th Councilmanic District

Barry Jung
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-81-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 10 Maple Avenue, located in the vicinity of Belair Road in Overlea. The Petition was filed by the owner of the property, Barry Jung. The Petitioner seeks approval of the subject property as a legal, nonconforming three apartment dwelling. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Barry Jung, owner of the property, Ruth Lauman, a nearby property owner, and William R. Levasseur, Jr., Esquire, attorney for the Petitioner. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 8,700 sq.ft., zoned D.R. 5.5 and is improved with a 2 and 1/2 story dwelling containing three apartments. Mr. Jung testified that he purchased the property as a result of an Estate sale and that he, himself was a tenant in the house from 1979 to 1989. Testimony and evidence offered indicated that the property has been used continuously and without interruption as a three apartment dwelling since at least 1937. Each unit

FILED
12/14/96
12/15/96

has a separate entrance and utilities. Mr. Jung now seeks to confirm the use of the property as a legal nonconforming, three apartment dwelling.

Appearing and testifying on behalf of the Petition was Ruth Lauman, who has resided across from the subject site at 7 Maple Avenue since 1921. Ms. Lauman testified that the subject property has been used as a three apartment dwelling since at least 1935 and that at no time was there any lapse in such use. Ms. Lauman supports the use of the subject dwelling as three apartments and testified that its use as such does not pose any problems to the surrounding community.

Section 101 of the B.C.Z.R. defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. In essence, a legal nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. However, the Petitioner must adduce testimony and evidence that any such use existed prior to the effective date of the prohibiting legislation. Moreover, it must be shown that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began. Furthermore, regulations are provided regarding the alteration and/or enlargement of such use.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1945 for three apartments.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is

a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

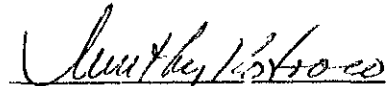
After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a three apartment dwelling since prior to 1945, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

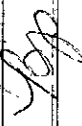
ORDER RECEIVED FOR FILING
Date 12/14/65
By [Signature]

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of December, 1995 that the Petition for Special Hearing to approve the subject property as a legal, nonconforming three apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner is hereby made aware that a thirty (30) day appeal period runs from the date of this Order. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

RECEIVED FOR
12/15/95
By 



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

December 14, 1995

William R. Levasseur, Jr., Esquire
22 W. Pennsylvania Avenue, Suite 602
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of Linden Avenue
(10 Maple Avenue)
14th Election District - 6th Councilmanic District
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Levasseur:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Barry Jung
7616 Bluegrass Road, Baltimore, Md. 21237

People's Counsel

File



Petition for Special Hearing

96-81-SPH

to the Zoning Commissioner of Baltimore County

for the property located at 10 Maple Ave., Baltimore, Md., 21206

which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the non-conforming use of 10 Maple Ave. as a 3 (three) unit dwelling.

Said property was converted into three units back in the 1930's and has been used as three units continuously to this day.

Therefore, since 10 Maple Ave. was used as 3 units prior to the zoning regulation which requires a minimum of 13,000 sq. ft. for 3 units in D.R. 5.5, it is petitioned that the County grant a non-conforming use permit for 10 Maple Ave. as 3 units.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

Barry Jung

(Type or Print Name)

Signature

(Type or Print Name)

Signature

(410) 866-2543

7616 Bluegrass Rd. (410) 866-3890

Address

Phone No

Baltimore, Md., 21237

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY _____ DATE _____

Contract Purchaser/Lessee

(Type

Signature

Address

City

LAW OFFICES
WILLIAM R. LEVASSEUR, JR.
SUITE 602
22 W. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

MARTIN & LEVASSEUR

(410) 321-0400

Attorney (or Consultant)

(Type or Print Name)

Signature

Address

Phone No

City

State

Zipcode



ORDER RECEIVED FOR FILING

Date

By



ZONING DESCRIPTION

Being all of lot NO. 633 and the easterly one-half of lot NO. 634 as shown on the plat entitled, "Addition to Overlea", which plat is recorded among the land records of Baltimore County in plat book J.W.S. NO. 2, folio 196, containing 8,700 square feet. Also known as 10 Maple Avenue and located in the 14th election district. Said property is located 240' northwest of Linden Ave.

78

96-81-5PH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

PL-81-SPH

District 1408

Date of Posting 11/18/95

Posted for: Special Hearing

Petitioner: Barry Jung

Location of property: 10 Maple Ave, NELS

Location of Signs: Facing roadway on property being zoned

Remarks: _____

Posted by M. H. H. H.

Signature

Date of return: 11/24/95

Number of Signs: 1



CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or
Room 118, Old Courthouse,
400 Washington Avenue,
Towson, Maryland 21204 as follows:

Case: #96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW
of Linden Avenue
14th Election District
6th Councilmanic

Legal Owner:

Barry Jung

Hearing: Wednesday,
October 11, 1995 at 11:00
a.m. in Rm. 118, Old Court-
house.

Special Hearing to approve
the non-conforming use of 10
Maple Avenue and a 3 unit
dwelling.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call 887-3353.

(2) For information concerning
the file and/or Hearing, Please
Call 887-3391.

9/182 Sept. 21.

TOWSON, MD.,

9/29, 1995

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on 9/21, 1995.

THE JEFFERSONIAN,

A. Henriksen

LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 8/18/93 ACCOUNT 1001-6130

96-81-SFH

AMOUNT \$ 28.50

RECEIVED FROM: Mr. Long

FOR: SPECIAL HANDLING (3 APT)
1040 Special Handling
1080 Special Handling

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No. 78

Petitioner: BARRY JUNG

Location: 10 MAPLE AVE BARTO MD 21206

PLEASE FORWARD ADVERTISING BILL TO:

NAME: BARRY JUNG

ADDRESS: 7616 BLUE GRASS RD
BARTO MD 21237

PHONE NUMBER: 866 - 3890
866 - 2543

AJ:ggs

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY
September 21, 1995 Issue - Jeffersonian

Please forward billing to:

Barry Jung
7616 Blue Grass Road
Baltimore, Maryland 21237
866-3890

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Owner: Barry Jung
HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)

10 Maple Avenue

NE/S Maple Avenue, 240' NW of Linden Avenue

14th Election District - 6th Councilmanic

Legal Owner: Barry Jung

HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Barry Jung

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

PLEASE NOTE HEARING DATE CHANGE

October 23, 1995

NOTICE OF REASSIGNMENT

Rescheduled from 10/11/95
CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Onwer: Barry Jung

Special Hearing to approve the non-conforming use of 10 Maple Avenue
and a 3 unit dwelling.

HEARING: FRIDAY, NOVEMBER 3, 1995 at 11:00 a.m. in Room 118, Old
Courthouse, 400 Washington Avenue, Towson MD 21204.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: Barry S. Jung





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 7, 1995

NOTICE OF REASSIGNMENT

CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Onwer: Barry Jung

Special Hearing to approve the non-conforming use of 10 Maple Avenue
and a 3 unit dwelling.

HEARING: FRIDAY, DECEMBER 8, 1995 at 11:00 a.m. in Room 106, County
Office Building, 111 W. Chesapeake Avenue, Towson MD 21204.

A handwritten signature in cursive script, reading "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: Barry Jung
William Levassuer, Esq.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 4, 1995

Mr. Barry Jung
7616 Bluegrass Road
Baltimore, Maryland 21237

RE: Item No.: 78
Case No.: 96-81-SPH
Petitioner: B. Jung

Dear Mr. Jung:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Permits and Development
 Management

DATE: September 14, 1995

FROM: Pat Keller, Director
 Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 78 80, 93, 94, 97, 99, 103, 104, 109, 110, 112, and 113

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Carol L. Kerns

PK/JL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM *Joyce Watson*
FROM: DEPRM
Development Coordination
SUBJECT: Zoning Advisory Committee
Agenda: 8/28/95

DATE: 8/30/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: *65*
66
67
68
72
74
78
79
7

LS:sp

LETTY2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: Sept. 7, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Development Plans Review Division

RE: Zoning Advisory Committee Meeting
for September 5, 1995
Item No. 078

The Development Plans Review Division has reviewed the subject zoning item. The issue of onsite parking shall be addressed.

RWB:sw

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/30/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: BARRY JUNG

LOCATION: NE/S MAPLE AVE., 240' NW OF LINDEN AVE. (10 MAPLE AVE.)

Item No.: 78

Zoning Agenda: SPECIAL HEARING

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

RECEIVED

SEP 5 1995

ZADM





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

8-30-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 078 (JJS)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for *Bob Small*
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

PETITION PROBLEMS AGENDA FOR 8/28/95

#69 --- JJS

1. No legal owner name, signature, address, or telephone number.

#75 --- CAM

1. No telephone number for legal owner.

#78 --- JJS

1. No review information on bottom of petition form.

#80 --- JLL

1. No review information on bottom of petition form.
2. Need attorney's signature.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

887-3351

February 6, 1995

Ms. Susan Selegraph
York Federal Savings and Loan Association
2006 Rock Spring Road
Forest Hill, Maryland 21050

Re: 10 Maple Avenue
Lots 633-634
"Addition to Overlea"
Tax Account No. 14-11-089275
14th Election District

Dear Ms. Selegraph:

The purpose of this correspondence is in reply to a letter dated January 26, 1995 from William R. Levasseur, Jr., Esq. on behalf of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). If 10 Maple Avenue had been converted to only two rather than three apartments, prior to 1955, with this use being continuous, the Office of Zoning Administration and Development Management would now be issuing a "Conditional Use Permit" based upon the submitted facts. However, in all cases a public hearing is mandatory to legally establish a nonconforming use for any dwelling converted into three or more apartments whose lot size is deficient in area.

A review of our record files does indicate 10 Maple Avenue to be composed of Lots 633 and 634 within the subdivision known as "Addition to Overlea". In fact, this subdivision was filed with the Clerk of the Court for Baltimore County, on July 21, 1905. With a zoning classification of D.R.5.5 (Density Residential, 5.5 dwelling units per acre), a lot size of 13,000 square feet would be required to support these apartments. In this instance, one encounters a site that equals only 5800 square feet.

Now, the steps necessary to file for a nonconforming use would require the completion of a Petition for Special Hearing. Once this document has been completed and accepted for filing by our office, a hearing would be held within approximately forty-five days. Fifteen days prior to this hearing, Baltimore County would post this property informing the community of the property owner's intentions with this land.

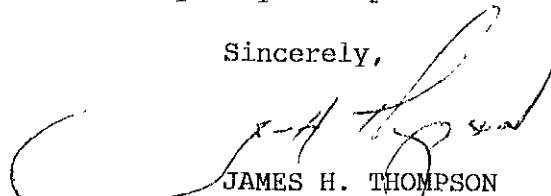


Ms. Susan Selegraph
February 6, 1995
Page 2

Of paramount importance is whether Baltimore County can officially render a decision based upon the submitted facts by counsel. By law we simply cannot, without going through the public hearing process. What are the chances of the Special Hearing Petition being granted? My answer will be, far greater than being denied, noting we have an individual who can and is willing to testify before either the Zoning Commissioner/Deputy that the conversion of 10 Maple Avenue dates back to the 1930's. Most important, this activity continues to this day. While opposition is always a possibility at any public hearing, the facts outlined in the affidavit of Ruth E. Lauman of 7 Maple Avenue speak for themselves. If her memory is this clear before the hearing officer, the chances for a favorable ruling should be positive. But again, an official governmental decision must be the result of a hearing, wherein the general public could offer additional testimony.

This office can guarantee that the enforcement section has no intention of initiating action against the Estate. If a complaint would be lodged pertaining to the three apartments, as long as the property owner was attempting to resolve this matter via the Petition For Special Hearing, enforcement action, as in all similar cases, would be held in abeyance. It is trusted that this letter has hopefully satisfied the concerns of your institution, if not, I would be more than willing to further discuss this matter with any of your representatives.

Sincerely,



JAMES H. THOMPSON
Zoning Supervisor

JHT/hek

c: William R. Levasseur, Esquire
Beach, Cadigan and Martin

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

96-87-SPH12

District 1st

Date of Posting

9/28/95

Posted for:

Special Hearing

Petitioner:

Anchor Bay Morris

Location of property:

8500 Core Rd

Location of Signs:

Facing road way on property being zoned

Remarks:

Posted by

M. Stecker
Signature

Date of return:

9/29/95

Number of Signs:

1

MICROFILMED

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

9/29, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/21, 1995.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-82-SPHA (Item B0)
8500 Cove Road - Anchor Bay Marine

12th Election District
7th Councilmanic

Legal Owner:

-Anchor Bay Marine

Hearing: Wednesday,

October 11, 1995 at 2:00 p.m.

In Rm. 118, Old Courthouse.

Special Hearing to construct a 40-foot by 60-foot building in the flood plain. Variance to permit a setback (for a proposed building) of 5 feet and a street centerline of 25 feet in lieu of the maximum required 30 feet and 50 feet, respectively.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible for
special accommodations
Please Call 887-3353.

(2) For information concerning
the file and/or hearing, please
Call 887-3391.

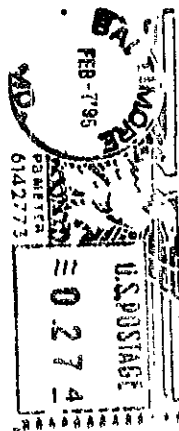
9/183 Sept. 21.



Baltimore County Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

WILLIAM R LEVASSEUR JR ESQ
BEACH CADIGAN & MARTIN
LOYOLA FEDERAL BLDG
22 W PENNSYLVANIA AVE STE 305
TOWSON MD 21204

PRESORTED
FIRST CLASS



RECEIVED

Baltimore County Government
Office of Zoning Administration
and Development Management

DIRECT LINE
887-3351

111 West Chesapeake Avenue
Towson, MD 21204



zoning file

78

(410) 887-3353

February 6, 1995

Ms. Susan Selegraph
York Federal Savings and Loan Association
2006 Rock Spring Road
Forest Hill, Maryland 21050

Re: 10 Maple Avenue
Lots 633-634
"Addition to Overlea"
Tax Account No. 14-11-089275
14th Election District

Dear Ms. Selegraph:

The purpose of this correspondence is in reply to a letter dated January 26, 1995 from William R. Levasseur, Jr., Esq. on behalf of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). If 10 Maple Avenue had been converted to only two rather than three apartments, prior to 1955, with this use being continuous, the Office of Zoning Administration and Development Management would now be issuing a "Conditional Use Permit" based upon the submitted facts. However, in all cases a public hearing is mandatory to legally establish a nonconforming use for any dwelling converted into three or more apartments whose lot size is deficient in area.

A review of our record files does indicate 10 Maple Avenue to be composed of Lots 633 and 634 within the subdivision known as "Addition to Overlea". In fact, this subdivision was filed with the Clerk of the Court for Baltimore County, on July 21, 1905. With a zoning classification of D.R.5.5 (Density Residential, 5.5 dwelling units per acre), a lot size of 13,000 square feet would be required to support these apartments. In this instance, one encounters a site that equals only 5800 square feet.

INCORRECT 8,700 SQ FT

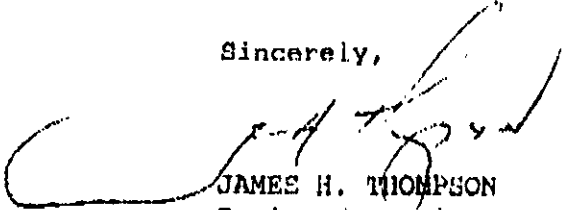
Now, the steps necessary to file for a nonconforming use would require the completion of a Petition for Special Hearing. Once this document has been completed and accepted for filing by our office, a hearing would be held within approximately forty-five days. Fifteen days prior to this hearing, Baltimore County would post this property informing the community of the property owner's intentions with this land.

Ms. Susan Selegraph
February 6, 1995
Page 2

Of paramount importance is whether Baltimore County can officially render a decision based upon the submitted facts by counsel. By law we simply cannot, without going through the public hearing process. What are the chances of the Special Hearing Petition being granted? My answer will be, far greater than being denied, noting we have an individual who can and is willing to testify before either the Zoning Commissioner/Deputy that the conversion of 10 Maple Avenue dates back to the 1930's. Most important, this activity continues to this day. While opposition is always a possibility at any public hearing, the facts outlined in the affidavit of Ruth E. Lauman of 7 Maple Avenue speak for themselves. If her memory is this clear before the hearing officer, the chances for a favorable ruling should be positive. But again, an official governmental decision must be the result of a hearing, wherein the general public could offer additional testimony.

This office can guarantee that the enforcement section has no intention of initiating action against the Estate. If a complaint would be lodged pertaining to the three apartments, as long as the property owner was attempting to resolve this matter via the Petition For Special Hearing, enforcement action, as in all similar cases, would be held in abeyance. It is trusted that this letter has hopefully satisfied the concerns of your institution, if not, I would be more than willing to further discuss this matter with any of your representatives.

Sincerely,



JAMES H. THOMPSON
Zoning Supervisor

JHT/hek

c: William R. Levasseur, Esquire
Beach, Cadigan and Martin

2C 5 file
78
96-81-SPH

AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT: 14
PROPERTY NO: 14-11-089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland.

2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.

3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.

4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.

5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.

6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931); at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillispie's niece, whose name I cannot directly recall.

7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.

MICROFILMED

8. I also recall the tenancy of one of the apartments in the subject property by a woman named Olga (last name not recalled) which lasted approximately 30 years, spanning the 1950's through the 1980's.

9. I would be willing to testify to the content of this Affidavit at a public hearing, if that was necessary.

I SOLEMNLY affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my knowledge information and belief and the content is based upon personal knowledge.

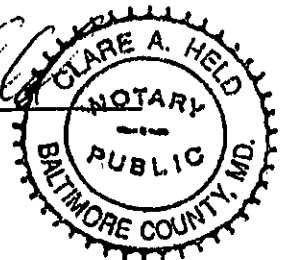
Ruth E. Lauman
RUTH E. LAUMAN

STATE OF MARYLAND, Baltimore CITY/COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 25th day of January, 1995 before me, the subscriber, a Notary Public of the State of Maryland, in and for the City/County aforesaid, personally appeared RUTH E. LAUMAN, the party named in the above AFFIDAVIT and acknowledged the foregoing to be her act and deed.

AS WITNESS my and notorial seal.

Clare A. Held
NOTARY PUBLIC



My Commission Expires: 2-24-96

RE: PETITION FOR SPECIAL HEARING *
10 Maple Avenue, NE/S Maple Avenue, 240'
NW of Linden Avenue, 14th Election *
District, 6th Councilmanic

BARRY JUNG

Petitioner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 96-81-SPH

* * *

ENTRY OF APPEARANCE

Please enter the appearance of William R. Levasseur, Jr. and the law offices of Martin & Levasseur as counsel to Petitioner, Barry Jung, in the above captioned matter. From this date forward, please send all notices and other important papers to undersigned counsel on behalf of Petitioner.



WILLIAM R. LEVASSEUR, JR.
602 Loyola Federal Building
22 W. Pennsylvania Avenue
Towson, Maryland 21204
321-0400
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 1995, a copy of the foregoing ENTRY OF APPEARANCE was mailed to Peter Max Zimmerman, People's Counsel for Baltimore County and Carole S. Demilio, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland, 21204.



WILLIAM R. LEVASSEUR, JR.

WILLIAM R. LEVASSEUR, JR.

LAW OFFICES
BEACH, CADIGAN & MARTIN
SUITE 305
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

RICHARD F. CADIGAN
TIMOTHY J. MARTIN
WILLIAM R. LEVASSEUR, JR.
RETIRED:
JAMES G. BEACH, JR.

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

January 26, 1995

Mr. Arnold Jablon, Esq., Director of Zoning
Administration and Development
111 Chesapeake Avenue
Towson, Maryland 21204

RE: The Property Known As:
10 Maple Avenue, Election District: 14
Property No.: 14-11-089275
Lots 633-635 of Plat: "Addition to Overlea"

Dear Director Jablon:

This firm has taken over the administration of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). As part of the liquidation of the assets of this Estate, original counsel to the Estate, Frank Cannizzaro, Jr. (now retired) was successful in securing a contract of sale for the above identified real estate which forms the major portion of the Estate of the decedent. The Contract of Sale concerning the subject property was entered into on December 13, 1994 and a settlement date was scheduled for January 27, 1995. The settlement has now been postponed because the appraiser working for the mortgage lender, York Federal Savings & Loan, identified a non-conforming zoning use of the property.

The purpose of this letter is to request the assistance of your good office in addressing the concerns of the mortgage lender so that settlement can proceed in the very near future and this Estate can be settled, thus, leaving it to the ultimate purchaser to resolve the zoning discrepancies.

Ten E. Maple Street is a house built some seventy years ago. The house has been used for the majority of its life as a multi-unit dwelling and, according to York Federal's appraiser, Mr. Robert Gracie, such a use is non-conforming.

During the life of the decedent, Theresa Kummelmann, the house was occupied by the owner at the first level. There exists two floors above the first level which have both been converted into apartments and have been rented to various tenants over the years. It

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Two

is the intention of the contract purchaser, Mr. Barry Jung, to continue the use of the premises in this fashion.

However, it is my understanding from communications with your office, that \$402 of the Zoning Regulations of Baltimore County requires significantly more square footage than is available to the subject premises to support the three living units, two of which are apartments. It is my further understanding from Mr. James Thompson of the Zoning Office that the regulation at issue was adopted in 1945. Obviously, then, any non-conforming use, in order to Grandfather beyond the passage of the 1945 Statute, would have to have pre-existed the adoption of the regulation.

Interestingly, the prospective purchaser in this matter actually resided in the subject property as a tenant from 1979 through 1989. I also discovered the identity of a tenant who rented from the premise for some thirty years. The recollection of one of Mrs. Kummelmann's niece's, Ms. Susan Byles, is that a woman named Olga was a virtual institution and that her tenancy spanned from sometime in the 1950's through the 1980's.

Most significantly, we have located a neighbor who resides directly across the street from the subject property by the name of Ruth E. Lauman who is absolutely clear in her recollection of the premises being used as a two apartment and owner occupied property since the 1930's. I have imposed upon Ms. Lauman to present the Zoning Commission with an Affidavit stating the relevant facts which, I believe, are sufficient for zoning purposes to supply the Zoning Commission with clear evidence that the non-conforming use was well established prior to 1945. The original Affidavit of Ms. Lauman is attached hereto and made a part hereof as if it was fully set forth herein.

Ms. Lauman is very clear in her recollection that in the very early 1930's she went to school with a child who resided in the home. She clearly remembers that a niece of that child's mother rented the second floor of the premises and, to the best of her recollection, the Gillespie family also occupied the third floor at that time. However, sometime in 1935 Harry and Josephine Kummelmann bought the premise from the Gillespies and converted the third floor into an apartment which they rented out to a second tenant. As the Affidavit indicates, the use of the premises by the Kummelmann's was established some ten years prior to the adoption of the regulation and has continued without interruption through to the present day. In fact, presently, the Estate is receiving rent checks from the two tenants currently residing at 10 E. Maple Street.

The Estate's dilemma in regards to these facts is as follows: The purchaser, Mr. Barry Jung is eager to commence a zoning hearing after posting proper notice to the

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Three

public, which should result in his being granted a special use permit authorizing him to continue to use the premises as it has been used since 1935; however, the Bank will not lend Mr. Jung the money to become the homeowner until such time as the Zoning Commission grants the special condition permit. As is self-evident from the logic of the two propositions, it is much like trying to put two positive ends of two separate magnets together - they will simply never touch, rather, they will repel each other. The effect all this has on the Estate of Theresa Kummelmann is that the Estate is unresolvable which does not sit well with the Orphans' Court for Baltimore County.

The only possible way of resolving this issue is for the Zoning Office to issue a statement which would be satisfactory to York Federal Savings & Loan so that the loan can go forward and that Mr. Jung can gain standing as a homeowner to properly file a Petition with the Commission to resolve this issue once and for all. I have given the mortgage lender my assurances that I think Mr. Jung will be highly successful in obtaining the permission of the Zoning Council to continue the non-conforming use provided that there are no reasonable objections from the public. Of course, my assurances mean nothing to the Bank and that is why I am writing this letter to you.

The Estate of Theresa Kummelmann would be greatly appreciative if you could issue a letter, directed as you think appropriate to either the Estate or to the Bank or to Mr. Jung for that matter, indicating what steps Mr. Jung will have to take once he becomes a homeowner to obtain the permission of the Zoning Commission authorizing a continued non-conforming use. I think it would be very helpful if you could attach probabilities of success to Mr. Jung's chances given the assumptions set forth in this letter and the attached Affidavit. It is clear that you cannot predict what the public reaction will be at a public hearing. However, we are very confident that Mr. Jung is a popular former resident of the neighborhood and is well liked. His petition is very likely to go uncontested.

Moreover, I think it would be very helpful to also obtain a statement from your office indicating no action will be taken to block the sale due to the non-conforming use and further, no action will be taken against the subject property which would affect the current non-conforming use of the property. That is not to say that Mr. Jung is alleviated from the burden of taking immediate action to petition the Zoning Council for official permission to continue the non-conforming use. Mr. Jung stands ready, willing and eager to quickly press forward with the special use petition as soon as he has gained standing.

To further burden your office beyond that which has already been requested, we also have a severe time constraint. The purchaser will lose his locked in rate by the middle

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Four

of February which could make the entire transaction cost prohibitive for him in light of the upward pressure on interest rates. Additionally, I must file an Account in the Estate no later than February 25, 1995. Due to the very limited resources of this Estate, the Personal Representative and all of the interested persons in the Estate are extremely anxious to get approval on a First and Final Administration Account so as to avoid further delay and expense.

I regret having to impose upon your time in this manner; however, I think you can understand that you are the Estate's last resort to insure we will not loose this purchaser and virtually eliminate any possibility of selling the Estate's only asset. Please do not hesitate to contact me with any questions or clarifications regarding the request herein set forth or any other matter that I have put before you. Please know that your time, cooperation and prompt attention are greatly appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'William R. Levasseur, Jr.', with a large, sweeping flourish extending to the right.

WILLIAM R. LEVASSEUR, JR.

WRL,JR/ch

cc: /Mr. Herman Kummelmann, Personal Representative
✓Mr. Dan Betcher, Long & Foster Realtors
Ms. Susan Selegraph, York Federal Savings & Loan Assoc.
✓Frank Cannizzaro, Jr., Esquire
Mr. Barry Jung

5274-95

10/26/95
g
to fs

LAW OFFICES
MARTIN & LEVASSEUR
SUITE 602
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

TIMOTHY J. MARTIN
WILLIAM R. LEVASSEUR, JR.

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

October 24, 1995

Mr. Arnold Jablon
Zoning Adm. & Dev. Mgt.
Baltimore County Office Bldg.
MAIL STOP 1105
Towson, Maryland 21204

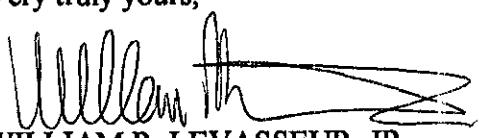
RE: Petition for Special Hearing
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Jablon:

Enclosed for filing please find an ENTRY OF APPEARANCE in the above captioned case.

Thank you for your attention to this matter.

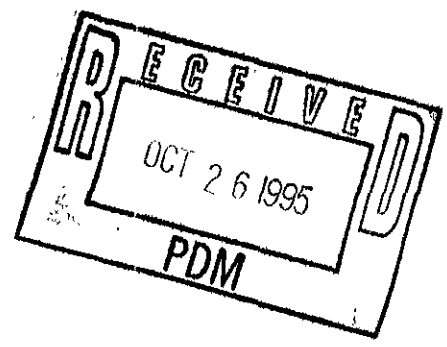
Very truly yours,


WILLIAM R. LEVASSEUR, JR.

WRL,JR./tk

Enclosure

cc: Mr. Barry Jung
Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire



WILLIAM R. LEVASSEUR, JR.

September 15, 1995

Mr. Arnold Jablon
Director
Baltimore County Dept. of Permits and
Development Management
(Development Processing)
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Ref: Case No. 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW Linden Ave.
14th Election District - 6th Councilmanic
Legal Owner: Barry S. Jung

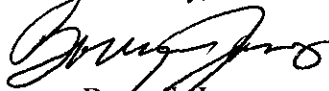
Dear Mr. Jablon:

With reference to the **"Notice of Hearing" (copy attached)** that I received regarding the above referenced property that has been scheduled for **October 11, 1995**, this letter is a formal request for a postponement and a **"re-schedule" date** due to the fact that a key witness in this matter is not available on October 11, 1995. She is very elderly and her schedule does not permit her to attend on **"Wednesday's" or "Thursdays"**.

I have spoken with Gwen in your office concerning this problem and she stated that the next available date would not be until November, 1995. I sincerely request your indulgence in this matter and request that this hearing could be re-scheduled for **November 3, 1995**, if at all possible. This date is agreeable to all parties concerned and I would appreciate it very much if this could be arranged. If this date is not convenient with your office, then November 7th, 1995, **(or any other Tuesday or Friday)** would be agreeable.

Please advise me at your convenience if this or another date mentioned would be suitable for you. If you have any questions, please do not hesitate to contact me at 410-866-3890. Thank you very much for your kind consideration.

Sincerely,



Barry S. Jung
7616 Blue Grass Road
Baltimore, MD 21237

RECEIVED

SEP 21 1995

ZADM

attachment



Baltimore County
Department of Permits and
Development Management

Development Processing •
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)

10 Maple Avenue

NE/S Maple Avenue, 240' NW of Linden Avenue

14th Election District - 6th Councilmanic

Legal Owner: Barry Jung

HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

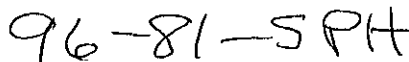
Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Barry Jung

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



SCALE 1" = 30'	LOCATION SURVEY 10 E. Maple Ave. - 14th District - Balto.Co.,MD
DATE 1/19/95	GENERAL SURVEYING CO. LAND & TOPOGRAPHIC SURVEYS
JOB No. 9501	P.O. Box 43351 Baltimore, MD 21236



NOTE: This plat is not intended for use in establishing property lines.

Pet Ex 1

Pet Ex #3

AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT: 14
PROPERTY NO: 14-11-089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland.

2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.

3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.

4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.

5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.

6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931); at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillispie's niece, whose name I cannot directly recall.

7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.

8. I also recall the tenancy of one of the apartments in the subject property by a woman named Olga (last name not recalled) which lasted approximately 30 years, spanning the 1950's through the 1980's.

9. I would be willing to testify to the content of this Affidavit at a public hearing, if that was necessary.

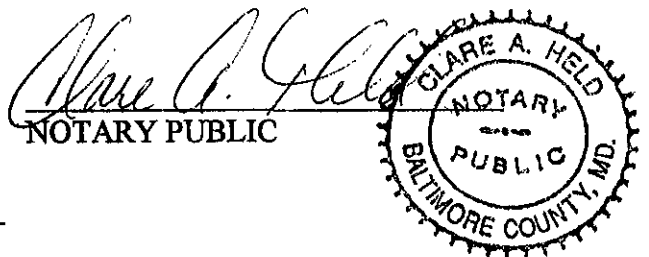
I SOLEMNLY affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my knowledge information and belief and the content is based upon personal knowledge.

Ruth E. Lauman
RUTH E. LAUMAN

STATE OF MARYLAND, Baltimore CITY/COUNTY, TO WIT:

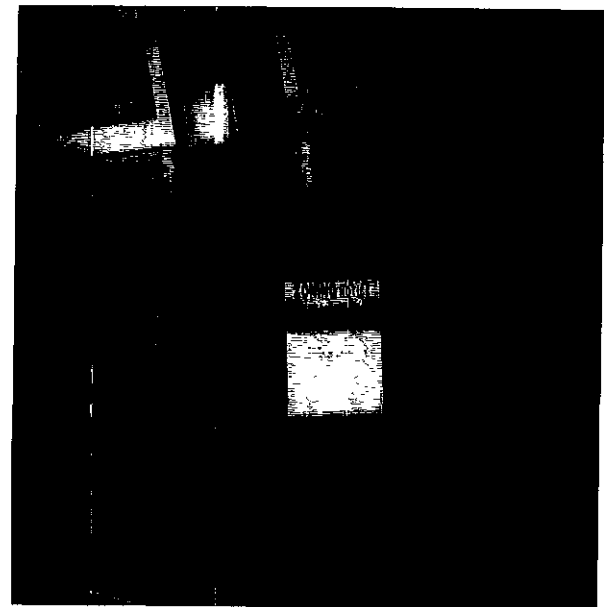
I HEREBY CERTIFY, that on this 25th day of January, 1995 before me, the subscriber, a Notary Public of the State of Maryland, in and for the City/County aforesaid, personally appeared RUTH E. LAUMAN, the party named in the above AFFIDAVIT and acknowledged the foregoing to be her act and deed.

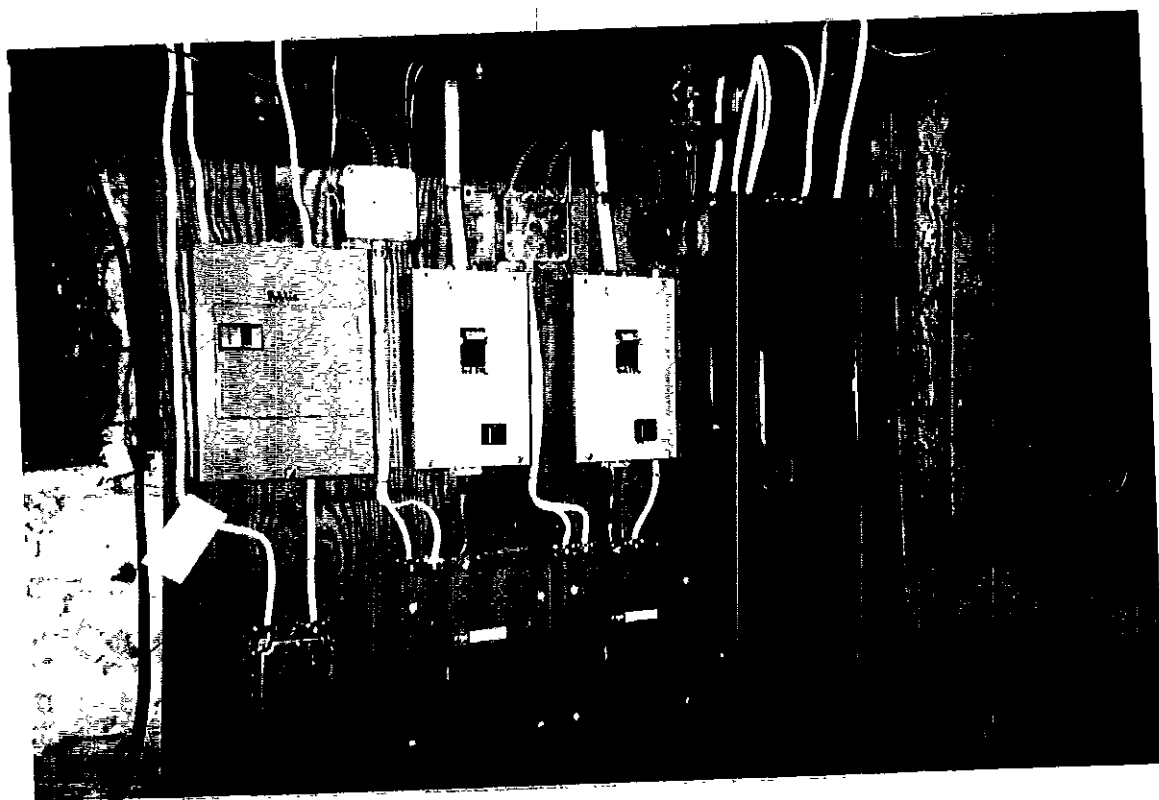
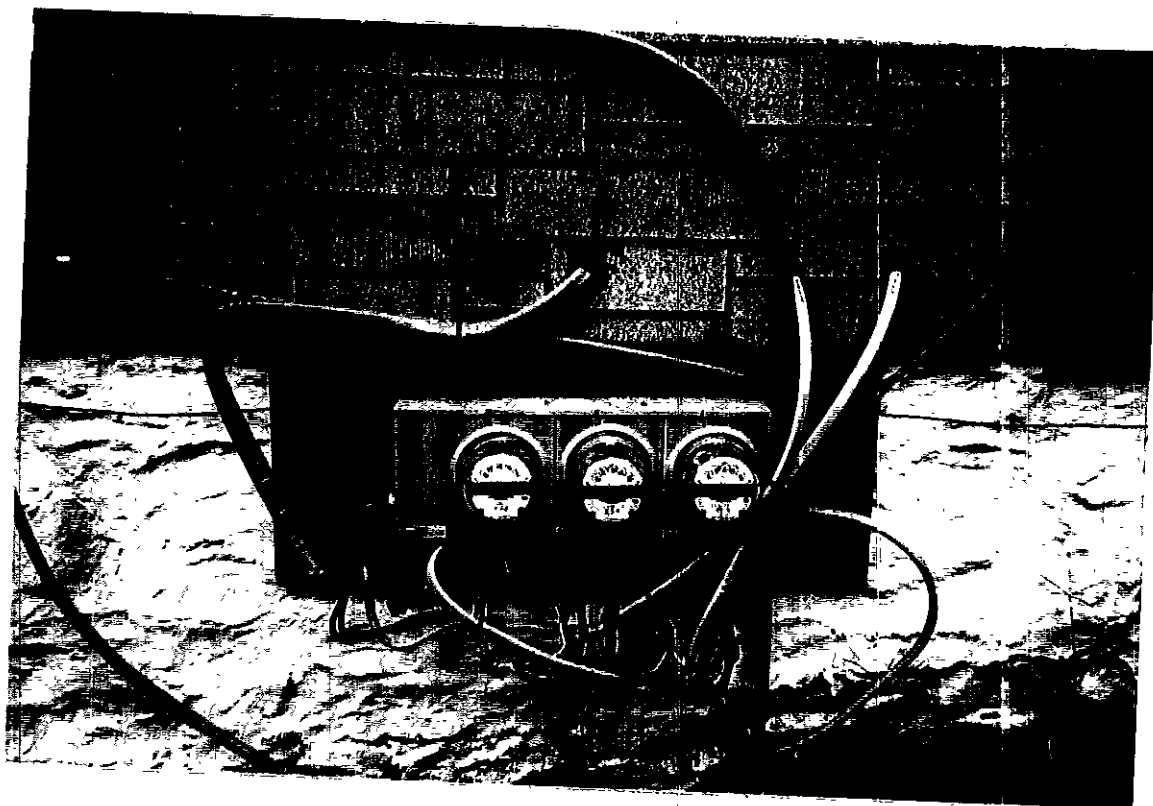
AS WITNESS my and notorial seal.



My Commission Expires: 2-24-96

Petitioner's
Exhibit 2A-2D
96-81-5AH





IN RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of
Linden Avenue
(10 Maple Avenue)
14th Election District
6th Councilmanic District

Barry Jung
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-81-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 10 Maple Avenue, located in the vicinity of Belair Road in Overlea. The Petition was filed by the owner of the property, Barry Jung. The Petitioner seeks approval of the subject property as a legal, nonconforming three apartment dwelling. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Barry Jung, owner of the property, Ruth Lauman, a nearby property owner, and William R. Levasseur, Jr., Esquire, attorney for the Petitioner. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 8,700 sq.ft., zoned D.R. 5.5 and is improved with a 2 and 1/2 story dwelling containing three apartments. Mr. Jung testified that he purchased the property as a result of an Estate sale and that he, himself was a tenant in the house from 1979 to 1989. Testimony and evidence offered indicated that the property has been used continuously and without interruption as a three apartment dwelling since at least 1937. Each unit

FILED
12/14/96
12/15/96

has a separate entrance and utilities. Mr. Jung now seeks to confirm the use of the property as a legal nonconforming, three apartment dwelling.

Appearing and testifying on behalf of the Petition was Ruth Lauman, who has resided across from the subject site at 7 Maple Avenue since 1921. Ms. Lauman testified that the subject property has been used as a three apartment dwelling since at least 1935 and that at no time was there any lapse in such use. Ms. Lauman supports the use of the subject dwelling as three apartments and testified that its use as such does not pose any problems to the surrounding community.

Section 101 of the B.C.Z.R. defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. In essence, a legal nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. However, the Petitioner must adduce testimony and evidence that any such use existed prior to the effective date of the prohibiting legislation. Moreover, it must be shown that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began. Furthermore, regulations are provided regarding the alteration and/or enlargement of such use.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1945 for three apartments.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is

a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

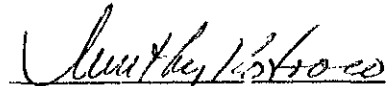
After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a three apartment dwelling since prior to 1945, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

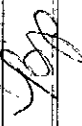
ORDER RECEIVED FOR FILING
Date 12/14/65
By [Signature]

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of December, 1995 that the Petition for Special Hearing to approve the subject property as a legal, nonconforming three apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner is hereby made aware that a thirty (30) day appeal period runs from the date of this Order. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

RECEIVED FOR
12/15/95
By 



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

December 14, 1995

William R. Levasseur, Jr., Esquire
22 W. Pennsylvania Avenue, Suite 602
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of Linden Avenue
(10 Maple Avenue)
14th Election District - 6th Councilmanic District
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Levasseur:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Barry Jung
7616 Bluegrass Road, Baltimore, Md. 21237

People's Counsel

File



Petition for Special Hearing

96-81-SPH

to the Zoning Commissioner of Baltimore County

for the property located at 10 Maple Ave., Baltimore, Md., 21206

which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the non-conforming use of 10 Maple Ave. as a 3 (three) unit dwelling.

Said property was converted into three units back in the 1930's and has been used as three units continuously to this day.

Therefore, since 10 Maple Ave. was used as 3 units prior to the zoning regulation which requires a minimum of 13,000 sq. ft. for 3 units in D.R. 5.5, it is petitioned that the County grant a non-conforming use permit for 10 Maple Ave. as 3 units.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

Barry Jung

(Type or Print Name)

Signature

(Type or Print Name)

Signature

(410) 866-2543

7616 Bluegrass Rd. (410) 866-3890

Address

Phone No

Baltimore, Md., 21237

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY _____ DATE _____

Contract Purchaser/Lessee

(Type

Signature

Address

City

LAW OFFICES
WILLIAM R. LEVASSEUR, JR.
SUITE 602
22 W. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

MARTIN & LEVASSEUR

(410) 321-0400

Attorney (or Counselor)

(Type or Print Name)

Signature

Address

Phone No

City

State

Zipcode



ORDER RECEIVED FOR FILING

Date

By



78

ZONING DESCRIPTION

Being all of lot NO. 633 and the easterly
one-half of lot NO. 634 as shown on the
plat entitled, "Addition to Overlea", which
plat is recorded among the land records of
Baltimore County in plat book J.W.S. NO. 2,
folio 196, containing 8,700 square feet.
Also known as 10 Maple Avenue and located
in the 14th election district. Said property
is located 240' northwest of Linden Ave.

78

96-81-5PH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

PL-81-SPH

District 1408

Date of Posting 11/18/95

Posted for: Special Hearing

Petitioner: Barry Jung

Location of property: 10 Maple Ave, N.E.S.

Location of Signs: Facing road way on property being zoned

Remarks: _____

Posted by M. H. H. H.

Signature

Date of return: 11/24/95

Number of Signs: 1



CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or
Room 118, Old Courthouse,
400 Washington Avenue,
Towson, Maryland 21204 as follows:

Case: #96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW
of Linden Avenue
14th Election District
6th Councilmanic

Legal Owner:

Barry Jung

Hearing: Wednesday,
October 11, 1995 at 11:00
a.m. in Rm. 118, Old Court-
house.

Special Hearing to approve
the non-conforming use of 10
Maple Avenue and a 3 unit
dwelling.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call 887-3353.

(2) For information concerning
the file and/or Hearing, Please
Call 887-3391.

9/182 Sept. 21.

TOWSON, MD.,

9/29, 1995

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on 9/21, 1995.

THE JEFFERSONIAN,

A. Henrichsen

LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 8/18/93 ACCOUNT 1001-6150

96-81-SFH

AMOUNT \$ 28.50

RECEIVED FROM: Mr. Long

FOR: SPECIAL HANDLING (3 APT)
1040 Special Handling
1080 Special Handling

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be assessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No. 78

Petitioner: BARRY JUNG

Location: 10 MAPLE AVE BARTO MD 21206

PLEASE FORWARD ADVERTISING BILL TO:

NAME: BARRY JUNG

ADDRESS: 7616 BLUE GRASS RD
BARTO MD 21237

PHONE NUMBER: 866 - 3890
866 - 2543

AJ:ggs

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY
September 21, 1995 Issue - Jeffersonian

Please forward billing to:

Barry Jung
7616 Blue Grass Road
Baltimore, Maryland 21237
866-3890

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Owner: Barry Jung
HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)

10 Maple Avenue

NE/S Maple Avenue, 240' NW of Linden Avenue

14th Election District - 6th Councilmanic

Legal Owner: Barry Jung

HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Barry Jung

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

PLEASE NOTE HEARING DATE CHANGE

October 23, 1995

NOTICE OF REASSIGNMENT

Rescheduled from 10/11/95
CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Onwer: Barry Jung

Special Hearing to approve the non-conforming use of 10 Maple Avenue
and a 3 unit dwelling.

HEARING: FRIDAY, NOVEMBER 3, 1995 at 11:00 a.m. in Room 118, Old
Courthouse, 400 Washington Avenue, Towson MD 21204.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: Barry S. Jung





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 7, 1995

NOTICE OF REASSIGNMENT

CASE NUMBER: 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW of Linden Avenue
14th Election District - 6th Councilmanic
Legal Onwer: Barry Jung

Special Hearing to approve the non-conforming use of 10 Maple Avenue
and a 3 unit dwelling.

HEARING: FRIDAY, DECEMBER 8, 1995 at 11:00 a.m. in Room 106, County
Office Building, 111 W. Chesapeake Avenue, Towson MD 21204.

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

ARNOLD JABLON
DIRECTOR

cc: Barry Jung
William Levassuer, Esq.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 4, 1995

Mr. Barry Jung
7616 Bluegrass Road
Baltimore, Maryland 21237

RE: Item No.: 78
Case No.: 96-81-SPH
Petitioner: B. Jung

Dear Mr. Jung:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Permits and Development
 Management

DATE: September 14, 1995

FROM: Pat Keller, Director
 Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 78 80, 93, 94, 97, 99, 103, 104, 109, 110, 112, and 113

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Carol L. Kerns

PK/JL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM *Joyce Watson*
FROM: DEPRM
Development Coordination
SUBJECT: Zoning Advisory Committee
Agenda: 8/28/95

DATE: 8/30/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: *65*
66
67
68
72
74
78
79
7

LS:sp

LETTY2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: Sept. 7, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Development Plans Review Division

RE: Zoning Advisory Committee Meeting
for September 5, 1995
Item No. 078

The Development Plans Review Division has reviewed the subject zoning item. The issue of onsite parking shall be addressed.

RWB:sw

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/30/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: BARRY JUNG

LOCATION: NE/S MAPLE AVE., 240' NW OF LINDEN AVE. (10 MAPLE AVE.)

Item No.: 78

Zoning Agenda: SPECIAL HEARING

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

RECEIVED

SEP 5 1995

ZADM





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

8-30-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 078 (JJS)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for *Bob Small*
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

PETITION PROBLEMS AGENDA FOR 8/28/95

#69 --- JJS

1. No legal owner name, signature, address, or telephone number.

#75 --- CAM

1. No telephone number for legal owner.

#78 --- JJS

1. No review information on bottom of petition form.

#80 --- JLL

1. No review information on bottom of petition form.
2. Need attorney's signature.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

887-3351

February 6, 1995

Ms. Susan Selegraph
York Federal Savings and Loan Association
2006 Rock Spring Road
Forest Hill, Maryland 21050

Re: 10 Maple Avenue
Lots 633-634
"Addition to Overlea"
Tax Account No. 14-11-089275
14th Election District

Dear Ms. Selegraph:

The purpose of this correspondence is in reply to a letter dated January 26, 1995 from William R. Levasseur, Jr., Esq. on behalf of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). If 10 Maple Avenue had been converted to only two rather than three apartments, prior to 1955, with this use being continuous, the Office of Zoning Administration and Development Management would now be issuing a "Conditional Use Permit" based upon the submitted facts. However, in all cases a public hearing is mandatory to legally establish a nonconforming use for any dwelling converted into three or more apartments whose lot size is deficient in area.

A review of our record files does indicate 10 Maple Avenue to be composed of Lots 633 and 634 within the subdivision known as "Addition to Overlea". In fact, this subdivision was filed with the Clerk of the Court for Baltimore County, on July 21, 1905. With a zoning classification of D.R.5.5 (Density Residential, 5.5 dwelling units per acre), a lot size of 13,000 square feet would be required to support these apartments. In this instance, one encounters a site that equals only 5800 square feet.

Now, the steps necessary to file for a nonconforming use would require the completion of a Petition for Special Hearing. Once this document has been completed and accepted for filing by our office, a hearing would be held within approximately forty-five days. Fifteen days prior to this hearing, Baltimore County would post this property informing the community of the property owner's intentions with this land.

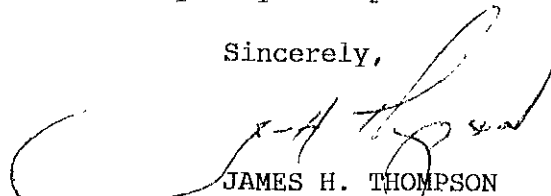


Ms. Susan Selegraph
February 6, 1995
Page 2

Of paramount importance is whether Baltimore County can officially render a decision based upon the submitted facts by counsel. By law we simply cannot, without going through the public hearing process. What are the chances of the Special Hearing Petition being granted? My answer will be, far greater than being denied, noting we have an individual who can and is willing to testify before either the Zoning Commissioner/Deputy that the conversion of 10 Maple Avenue dates back to the 1930's. Most important, this activity continues to this day. While opposition is always a possibility at any public hearing, the facts outlined in the affidavit of Ruth E. Lauman of 7 Maple Avenue speak for themselves. If her memory is this clear before the hearing officer, the chances for a favorable ruling should be positive. But again, an official governmental decision must be the result of a hearing, wherein the general public could offer additional testimony.

This office can guarantee that the enforcement section has no intention of initiating action against the Estate. If a complaint would be lodged pertaining to the three apartments, as long as the property owner was attempting to resolve this matter via the Petition For Special Hearing, enforcement action, as in all similar cases, would be held in abeyance. It is trusted that this letter has hopefully satisfied the concerns of your institution, if not, I would be more than willing to further discuss this matter with any of your representatives.

Sincerely,



JAMES H. THOMPSON
Zoning Supervisor

JHT/hek

c: William R. Levasseur, Esquire
Beach, Cadigan and Martin

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

96-87-SPH12

District 1st

Date of Posting

9/28/95

Posted for:

Special Hearing

Petitioner:

Anchor Bay Morris

Location of property:

8500 Core Rd

Location of Signs:

Facing road way on property being zoned

Remarks:

Posted by

M. Stecker
Signature

Date of return:

9/29/95

Number of Signs:

1

MICROFILMED

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

9/29, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/21, 1995.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-82-SPHA (Item B0)
8500 Cove Road - Anchor Bay Marine

12th Election District
7th Councilmanic

Legal Owner:

-Anchor Bay Marine

Hearing: Wednesday,

October 11, 1995 at 2:00 p.m.

In Rm. 118, Old Courthouse.

Special Hearing to construct a 40-foot by 60-foot building in the flood plain. Variance to permit a setback (for a proposed building) of 5 feet and a street centerline of 25 feet in lieu of the maximum required 30 feet and 50 feet, respectively.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible for
special accommodations
Please Call 887-3353.

(2) For information concerning
the file and/or hearing, please
Call 887-3391.

9/183 Sept. 21.



Baltimore County Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

WILLIAM R LEVASSEUR JR ESQ
BEACH CADIGAN & MARTIN
LOYOLA FEDERAL BLDG
22 W PENNSYLVANIA AVE STE 305
TOWSON MD 21204

PRESORTED
FIRST CLASS



RECEIVED

Baltimore County Government
Office of Zoning Administration
and Development Management

DIRECT LINE
887-3351

111 West Chesapeake Avenue
Towson, MD 21204



zoning file

78

(410) 887-3353

February 6, 1995

Ms. Susan Selegraph
York Federal Savings and Loan Association
2006 Rock Spring Road
Forest Hill, Maryland 21050

Re: 10 Maple Avenue
Lots 633-634
"Addition to Overlea"
Tax Account No. 14-11-089275
14th Election District

Dear Ms. Selegraph:

The purpose of this correspondence is in reply to a letter dated January 26, 1995 from William R. Levasseur, Jr., Esq. on behalf of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). If 10 Maple Avenue had been converted to only two rather than three apartments, prior to 1955, with this use being continuous, the Office of Zoning Administration and Development Management would now be issuing a "Conditional Use Permit" based upon the submitted facts. However, in all cases a public hearing is mandatory to legally establish a nonconforming use for any dwelling converted into three or more apartments whose lot size is deficient in area.

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incorrect 8,700 sq ft

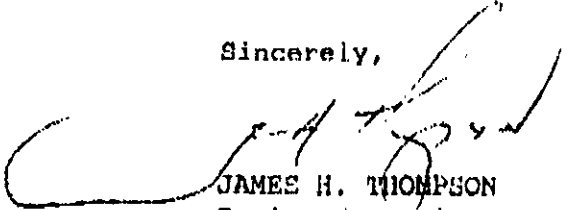
Now, the steps necessary to file for a nonconforming use would require the completion of a Petition for Special Hearing. Once this document has been completed and accepted for filing by our office, a hearing would be held within approximately forty-five days. Fifteen days prior to this hearing, Baltimore County would post this property informing the community of the property owner's intentions with this land.

Ms. Susan Selegraph
February 6, 1995
Page 2

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Sincerely,



JAMES H. THOMPSON
Zoning Supervisor

JHT/hek

c: William R. Levasseur, Esquire
Beach, Cadigan and Martin

2C 5 file
78
96-81-SPH

AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT: 14
PROPERTY NO: 14-11-089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland.

2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.

3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.

4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.

5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.

6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931); at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillispie's niece, whose name I cannot directly recall.

7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.

MICROFILMED

8. I also recall the tenancy of one of the apartments in the subject property by a woman named Olga (last name not recalled) which lasted approximately 30 years, spanning the 1950's through the 1980's.

9. I would be willing to testify to the content of this Affidavit at a public hearing, if that was necessary.

I SOLEMNLY affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my knowledge information and belief and the content is based upon personal knowledge.

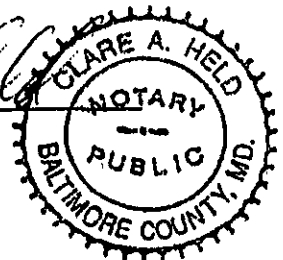
Ruth E. Lauman
RUTH E. LAUMAN

STATE OF MARYLAND, Baltimore CITY/COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 25th day of January, 1995 before me, the subscriber, a Notary Public of the State of Maryland, in and for the City/County aforesaid, personally appeared RUTH E. LAUMAN, the party named in the above AFFIDAVIT and acknowledged the foregoing to be her act and deed.

AS WITNESS my and notorial seal.

Clare A. Held
NOTARY PUBLIC



My Commission Expires: 2-24-96

RE: PETITION FOR SPECIAL HEARING *
10 Maple Avenue, NE/S Maple Avenue, 240'
NW of Linden Avenue, 14th Election *
District, 6th Councilmanic

BARRY JUNG

Petitioner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 96-81-SPH

* * *

ENTRY OF APPEARANCE

Please enter the appearance of William R. Levasseur, Jr. and the law offices of Martin & Levasseur as counsel to Petitioner, Barry Jung, in the above captioned matter. From this date forward, please send all notices and other important papers to undersigned counsel on behalf of Petitioner.



WILLIAM R. LEVASSEUR, JR.
602 Loyola Federal Building
22 W. Pennsylvania Avenue
Towson, Maryland 21204
321-0400
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 1995, a copy of the foregoing ENTRY OF APPEARANCE was mailed to Peter Max Zimmerman, People's Counsel for Baltimore County and Carole S. Demilio, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland, 21204.



WILLIAM R. LEVASSEUR, JR.

MICROFILMED

LAW OFFICES
BEACH, CADIGAN & MARTIN
SUITE 305
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

RICHARD F. CADIGAN
TIMOTHY J. MARTIN
WILLIAM R. LEVASSEUR, JR.
RETIRED:
JAMES G. BEACH, JR.

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

January 26, 1995

Mr. Arnold Jablon, Esq., Director of Zoning
Administration and Development
111 Chesapeake Avenue
Towson, Maryland 21204

RE: The Property Known As:
10 Maple Avenue, Election District: 14
Property No.: 14-11-089275
Lots 633-635 of Plat: "Addition to Overlea"

Dear Director Jablon:

This firm has taken over the administration of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). As part of the liquidation of the assets of this Estate, original counsel to the Estate, Frank Cannizzaro, Jr. (now retired) was successful in securing a contract of sale for the above identified real estate which forms the major portion of the Estate of the decedent. The Contract of Sale concerning the subject property was entered into on December 13, 1994 and a settlement date was scheduled for January 27, 1995. The settlement has now been postponed because the appraiser working for the mortgage lender, York Federal Savings & Loan, identified a non-conforming zoning use of the property.

The purpose of this letter is to request the assistance of your good office in addressing the concerns of the mortgage lender so that settlement can proceed in the very near future and this Estate can be settled, thus, leaving it to the ultimate purchaser to resolve the zoning discrepancies.

Ten E. Maple Street is a house built some seventy years ago. The house has been used for the majority of its life as a multi-unit dwelling and, according to York Federal's appraiser, Mr. Robert Gracie, such a use is non-conforming.

During the life of the decedent, Theresa Kummelmann, the house was occupied by the owner at the first level. There exists two floors above the first level which have both been converted into apartments and have been rented to various tenants over the years. It

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Two

is the intention of the contract purchaser, Mr. Barry Jung, to continue the use of the premises in this fashion.

However, it is my understanding from communications with your office, that \$402 of the Zoning Regulations of Baltimore County requires significantly more square footage than is available to the subject premises to support the three living units, two of which are apartments. It is my further understanding from Mr. James Thompson of the Zoning Office that the regulation at issue was adopted in 1945. Obviously, then, any non-conforming use, in order to Grandfather beyond the passage of the 1945 Statute, would have to have pre-existed the adoption of the regulation.

Interestingly, the prospective purchaser in this matter actually resided in the subject property as a tenant from 1979 through 1989. I also discovered the identity of a tenant who rented from the premise for some thirty years. The recollection of one of Mrs. Kummelmann's niece's, Ms. Susan Byles, is that a woman named Olga was a virtual institution and that her tenancy spanned from sometime in the 1950's through the 1980's.

Most significantly, we have located a neighbor who resides directly across the street from the subject property by the name of Ruth E. Lauman who is absolutely clear in her recollection of the premises being used as a two apartment and owner occupied property since the 1930's. I have imposed upon Ms. Lauman to present the Zoning Commission with an Affidavit stating the relevant facts which, I believe, are sufficient for zoning purposes to supply the Zoning Commission with clear evidence that the non-conforming use was well established prior to 1945. The original Affidavit of Ms. Lauman is attached hereto and made a part hereof as if it was fully set forth herein.

Ms. Lauman is very clear in her recollection that in the very early 1930's she went to school with a child who resided in the home. She clearly remembers that a niece of that child's mother rented the second floor of the premises and, to the best of her recollection, the Gillespie family also occupied the third floor at that time. However, sometime in 1935 Harry and Josephine Kummelmann bought the premise from the Gillespies and converted the third floor into an apartment which they rented out to a second tenant. As the Affidavit indicates, the use of the premises by the Kummelmann's was established some ten years prior to the adoption of the regulation and has continued without interruption through to the present day. In fact, presently, the Estate is receiving rent checks from the two tenants currently residing at 10 E. Maple Street.

The Estate's dilemma in regards to these facts is as follows: The purchaser, Mr. Barry Jung is eager to commence a zoning hearing after posting proper notice to the

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Three

public, which should result in his being granted a special use permit authorizing him to continue to use the premises as it has been used since 1935; however, the Bank will not lend Mr. Jung the money to become the homeowner until such time as the Zoning Commission grants the special condition permit. As is self-evident from the logic of the two propositions, it is much like trying to put two positive ends of two separate magnets together - they will simply never touch, rather, they will repel each other. The effect all this has on the Estate of Theresa Kummelmann is that the Estate is unresolvable which does not sit well with the Orphans' Court for Baltimore County.

The only possible way of resolving this issue is for the Zoning Office to issue a statement which would be satisfactory to York Federal Savings & Loan so that the loan can go forward and that Mr. Jung can gain standing as a homeowner to properly file a Petition with the Commission to resolve this issue once and for all. I have given the mortgage lender my assurances that I think Mr. Jung will be highly successful in obtaining the permission of the Zoning Council to continue the non-conforming use provided that there are no reasonable objections from the public. Of course, my assurances mean nothing to the Bank and that is why I am writing this letter to you.

The Estate of Theresa Kummelmann would be greatly appreciative if you could issue a letter, directed as you think appropriate to either the Estate or to the Bank or to Mr. Jung for that matter, indicating what steps Mr. Jung will have to take once he becomes a homeowner to obtain the permission of the Zoning Commission authorizing a continued non-conforming use. I think it would be very helpful if you could attach probabilities of success to Mr. Jung's chances given the assumptions set forth in this letter and the attached Affidavit. It is clear that you cannot predict what the public reaction will be at a public hearing. However, we are very confident that Mr. Jung is a popular former resident of the neighborhood and is well liked. His petition is very likely to go uncontested.

Moreover, I think it would be very helpful to also obtain a statement from your office indicating no action will be taken to block the sale due to the non-conforming use and further, no action will be taken against the subject property which would affect the current non-conforming use of the property. That is not to say that Mr. Jung is alleviated from the burden of taking immediate action to petition the Zoning Council for official permission to continue the non-conforming use. Mr. Jung stands ready, willing and eager to quickly press forward with the special use petition as soon as he has gained standing.

To further burden your office beyond that which has already been requested, we also have a severe time constraint. The purchaser will lose his locked in rate by the middle

Mr. Arnold Jablon, Esq., Director of Zoning
January 26, 1995
Page Four

of February which could make the entire transaction cost prohibitive for him in light of the upward pressure on interest rates. Additionally, I must file an Account in the Estate no later than February 25, 1995. Due to the very limited resources of this Estate, the Personal Representative and all of the interested persons in the Estate are extremely anxious to get approval on a First and Final Administration Account so as to avoid further delay and expense.

I regret having to impose upon your time in this manner; however, I think you can understand that you are the Estate's last resort to insure we will not loose this purchaser and virtually eliminate any possibility of selling the Estate's only asset. Please do not hesitate to contact me with any questions or clarifications regarding the request herein set forth or any other matter that I have put before you. Please know that your time, cooperation and prompt attention are greatly appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'William R. Levasseur, Jr.', with a large, sweeping flourish extending to the right.

WILLIAM R. LEVASSEUR, JR.

WRL, JR/ch

cc: /Mr. Herman Kummelmann, Personal Representative
✓Mr. Dan Betcher, Long & Foster Realtors
Ms. Susan Selegraph, York Federal Savings & Loan Assoc.
✓Frank Cannizzaro, Jr., Esquire
Mr. Barry Jung

5274-95

10/26/95
g
to fs

LAW OFFICES
MARTIN & LEVASSEUR
SUITE 602
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

TIMOTHY J. MARTIN
WILLIAM R. LEVASSEUR, JR.

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

October 24, 1995

Mr. Arnold Jablon
Zoning Adm. & Dev. Mgt.
Baltimore County Office Bldg.
MAIL STOP 1105
Towson, Maryland 21204

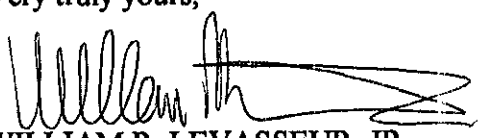
RE: Petition for Special Hearing
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Jablon:

Enclosed for filing please find an ENTRY OF APPEARANCE in the above captioned case.

Thank you for your attention to this matter.

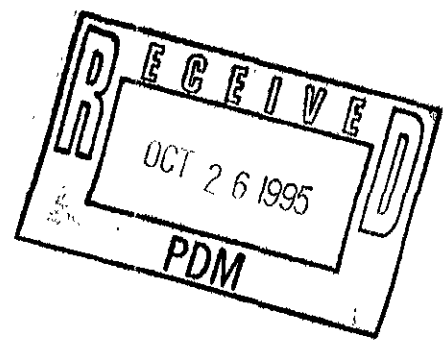
Very truly yours,


WILLIAM R. LEVASSEUR, JR.

WRL,JR./tk

Enclosure

cc: Mr. Barry Jung
Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire



WILLIAM R. LEVASSEUR, JR.

September 15, 1995

Mr. Arnold Jablon
Director
Baltimore County Dept. of Permits and
Development Management
(Development Processing)
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Ref: Case No. 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW Linden Ave.
14th Election District - 6th Councilmanic
Legal Owner: Barry S. Jung

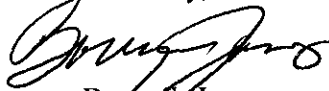
Dear Mr. Jablon:

With reference to the **"Notice of Hearing" (copy attached)** that I received regarding the above referenced property that has been scheduled for **October 11, 1995**, this letter is a formal request for a postponement and a **"re-schedule" date** due to the fact that a key witness in this matter is not available on October 11, 1995. She is very elderly and her schedule does not permit her to attend on **"Wednesday's" or "Thursdays"**.

I have spoken with Gwen in your office concerning this problem and she stated that the next available date would not be until November, 1995. I sincerely request your indulgence in this matter and request that this hearing could be re-scheduled for **November 3, 1995**, if at all possible. This date is agreeable to all parties concerned and I would appreciate it very much if this could be arranged. If this date is not convenient with your office, then November 7th, 1995, **(or any other Tuesday or Friday)** would be agreeable.

Please advise me at your convenience if this or another date mentioned would be suitable for you. If you have any questions, please do not hesitate to contact me at 410-866-3890. Thank you very much for your kind consideration.

Sincerely,



Barry S. Jung
7616 Blue Grass Road
Baltimore, MD 21237

RECEIVED

SEP 21 1995

ZADM

attachment



Baltimore County
Department of Permits and
Development Management

Development Processing •
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 11, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-81-SPH (Item 78)

10 Maple Avenue

NE/S Maple Avenue, 240' NW of Linden Avenue

14th Election District - 6th Councilmanic

Legal Onwer: Barry Jung

HEARING: WEDNESDAY, OCTOBER 11, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

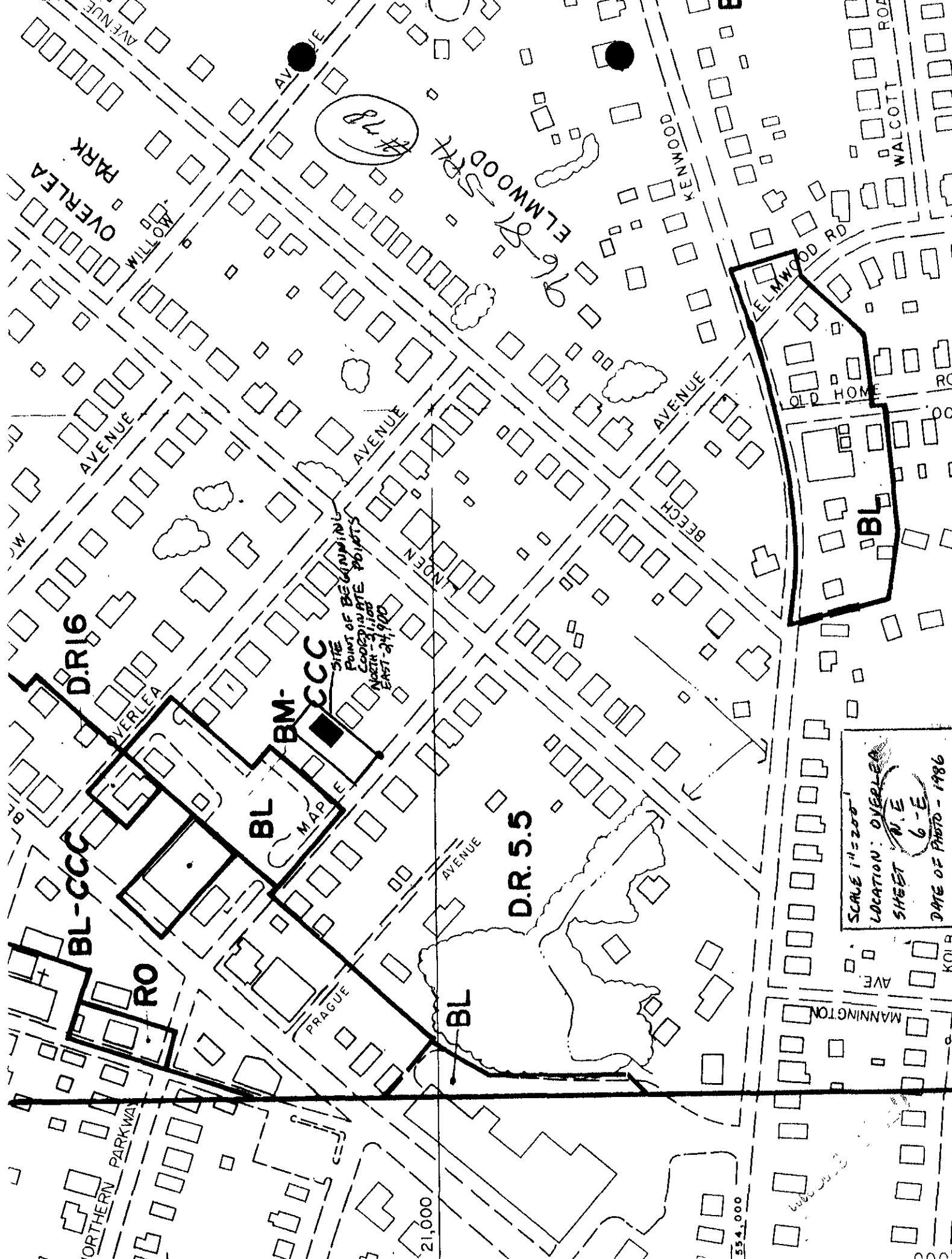
Special Hearing to approve the non-conforming use of 10 Maple Avenue and a 3 unit dwelling.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

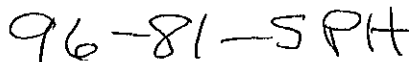
Arnold Jablon
Director

cc: Barry Jung

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



SCALE 1"=200'
LOCATION: OVERLEA
SHEET W.E
6-E
DATE OF PHOTO - 1986



A circular professional seal for a land surveyor in the State of Maryland. The outer ring contains the text "STATE OF MARYLAND" at the top and "PROFESSIONAL LAND SURVEYOR" at the bottom. Inside the ring, the name "GEORGE D. SAIN, JR." is written in an arc. In the center is a shield with a crest on top, flanked by two figures. Below the shield, the text "NO. 0017" and "REGISTERED" are printed.

NOTE: This plat is not intended for use in establishing property lines.

Pet Ex 1

Pet Ex #3

AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT: 14
PROPERTY NO: 14-11-089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland.

2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.

3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.

4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.

5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.

6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931); at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillispie's niece, whose name I cannot directly recall.

7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.

8. I also recall the tenancy of one of the apartments in the subject property by a woman named Olga (last name not recalled) which lasted approximately 30 years, spanning the 1950's through the 1980's.

9. I would be willing to testify to the content of this Affidavit at a public hearing, if that was necessary.

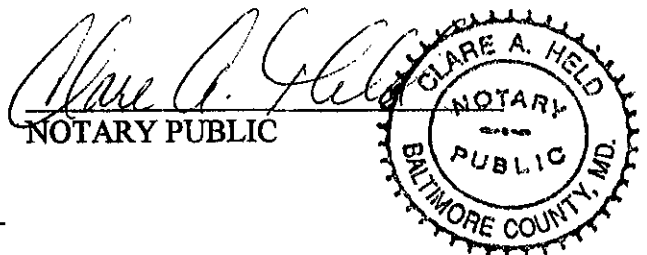
I SOLEMNLY affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my knowledge information and belief and the content is based upon personal knowledge.

Ruth E. Lauman
RUTH E. LAUMAN

STATE OF MARYLAND, Baltimore CITY/COUNTY, TO WIT:

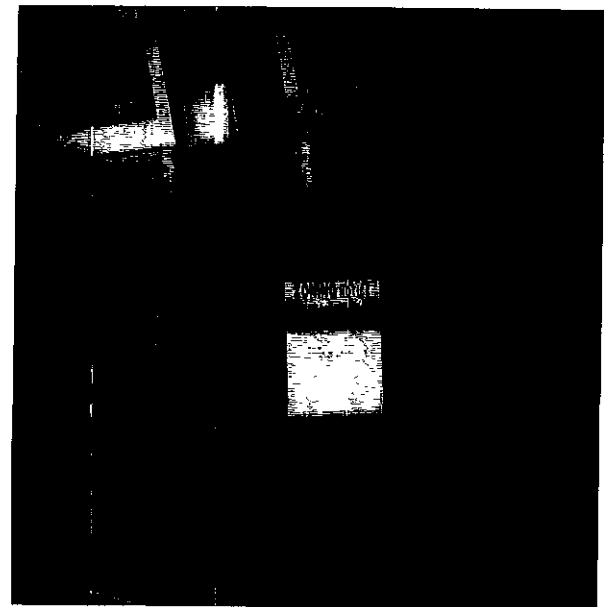
I HEREBY CERTIFY, that on this 25th day of January, 1995 before me, the subscriber, a Notary Public of the State of Maryland, in and for the City/County aforesaid, personally appeared RUTH E. LAUMAN, the party named in the above AFFIDAVIT and acknowledged the foregoing to be her act and deed.

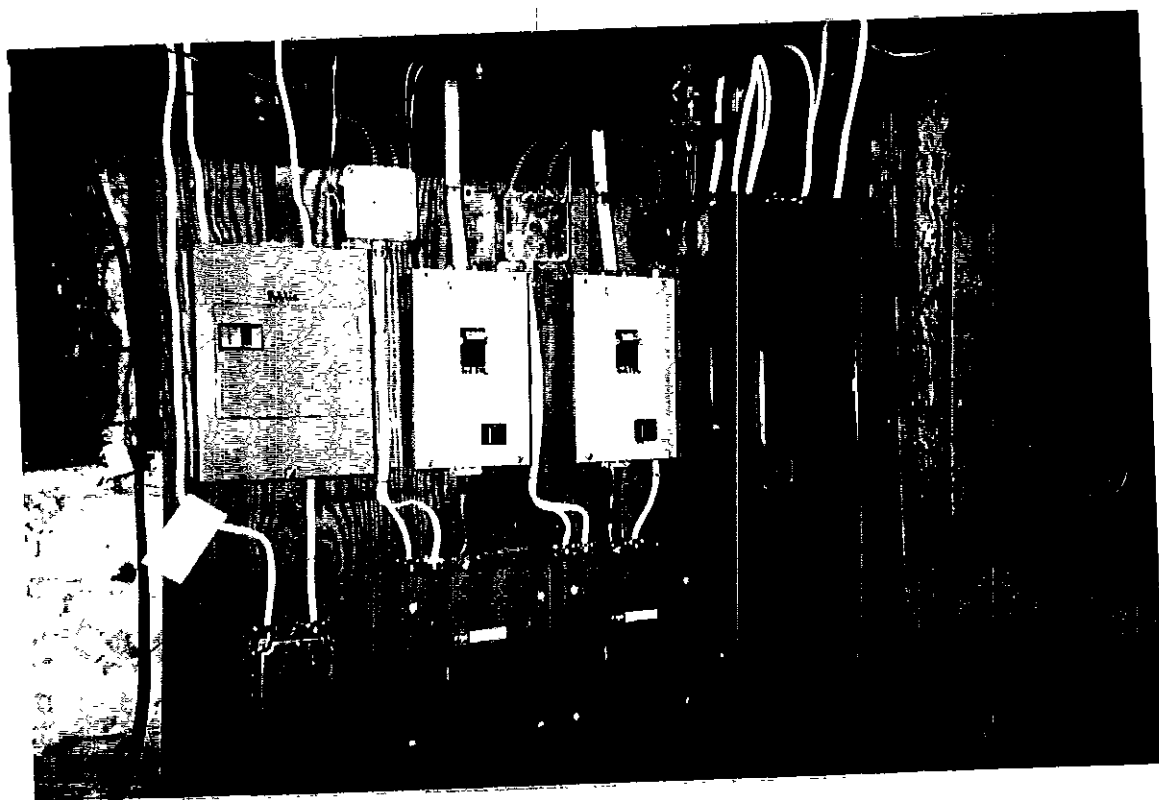
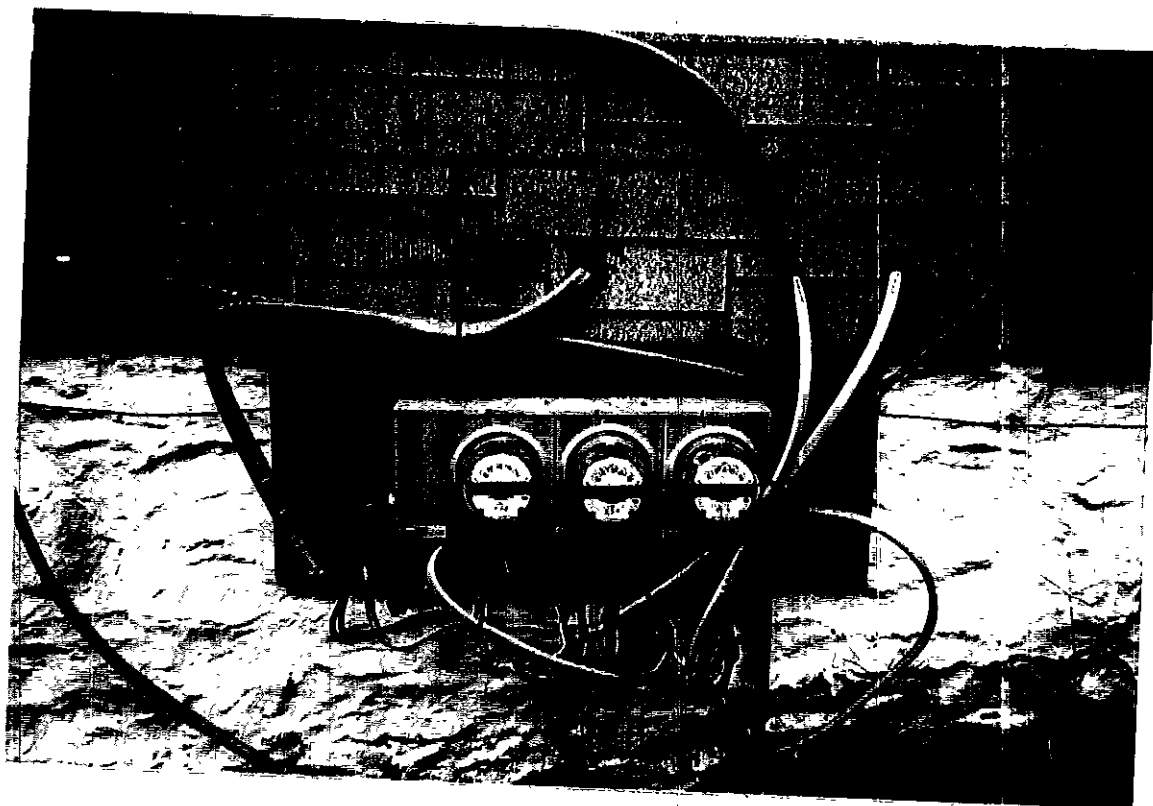
AS WITNESS my and notorial seal.



My Commission Expires: 2-24-96

Petitioner's
Exhibit 2A-2D
96-81-5AH





IN RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of
Linden Avenue
(10 Maple Avenue)
14th Election District
6th Councilmanic District
Barry Jung
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-81-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 10 Maple Avenue, located in the vicinity of Belair Road in Overlea. The Petition was filed by the owner of the property, Barry Jung. The Petitioner seeks approval of the subject property as a legal, nonconforming three apartment dwelling. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Barry Jung, owner of the property, Ruth Lauman, a nearby property owner, and William R. Levasseur, Jr., Esquire, attorney for the Petitioner. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 8,700 sq.ft., zoned D.R. 5.5 and is improved with a 2 and 1/2 story dwelling containing three apartments. Mr. Jung testified that he purchased the property as a result of an Estate sale and that he, himself was a tenant in the house from 1979 to 1989. Testimony and evidence offered indicated that the property has been used continuously and without interruption as a three apartment dwelling since at least 1937. Each unit

has a separate entrance and utilities. Mr. Jung now seeks to confirm the use of the property as a legal nonconforming, three apartment dwelling.

Appearing and testifying on behalf of the Petition was Ruth Lauman, who has resided across from the subject site at 7 Maple Avenue since 1921. Ms. Lauman testified that the subject property has been used as a three apartment dwelling since at least 1935 and that at no time was there any lapse in such use. Ms. Lauman supports the use of the subject dwelling as three apartments and testified that its use as such does not pose any problems to the surrounding community.

Section 101 of the B.C.Z.R. defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. In essence, a legal nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. However, the Petitioner must adduce testimony and evidence that any such use existed prior to the effective date of the prohibiting legislation. Moreover, it must be shown that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began. Furthermore, regulations are provided regarding the alteration and/or enlargement of such use.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1945 for three apartments.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is

a different way, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a three apartment dwelling since prior to 1945, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of December, 1995 that the Petition for Special Hearing to approve the subject property as a legal, nonconforming three apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner is hereby made aware that a thirty (30) day appeal period runs from the date of this Order. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 12/14/95
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/14/95
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/14/95
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/14/95
By [Signature]

- 2 -

- 3 -

- 1 -



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
430 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

December 14, 1995

William R. Levasseur, Jr., Esquire
22 W. Pennsylvania Avenue, Suite 602
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NE/S Maple Avenue, 240' NW of Linden Avenue
(10 Maple Avenue)
14th Election District - 6th Councilmanic District
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Levasseur:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-3391.

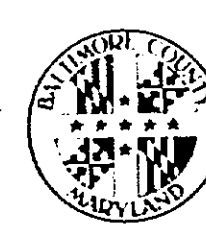
Very truly yours,
Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Barry Jung
7616 Bluegrass Road, Baltimore, Md. 21237

People's Counsel

File



Petition for Special Hearing 96-81-SPH to the Zoning Commissioner of Baltimore County

for the property located at 10 Maple Ave., Baltimore, Md., 21205
which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 502.1 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the non-conforming use of 10 Maple Ave. as a 3 (three) unit dwelling. Said property was converted into three units back in the 1930's and has been used as three units continuously to this day. Therefore, since 10 Maple Ave. was used as 3 units prior to the zoning regulation which requires a minimum of 13,000 sq. ft. for 3 units in D.R. 5.5, it is petitioned that the County grant a non-conforming use permit for 10 Maple Ave. as 3 units.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

ORDER RECEIVED FOR FILING
Date 12/14/95
By [Signature]

LAW OFFICE
WILLIAM R. LEVASSEUR, JR.
SUITE 602
22 W. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

MARTIN & LEVASSEUR (410) 321-0400

Use the following section and agree under the penalties of perjury that I am the legal owner(s) of a property which is the subject of this petition.

Legal Owner(s)
Barry Jung

Type or Print Name
Barry Jung

Signature
[Signature]

Type or Print Name
Barry Jung

Signature
[Signature]

Type or Print Name
Barry Jung

Signature
[Signature]

Type or Print Name
Barry Jung

Signature
[Signature]

Type or Print Name
Barry Jung

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Barry Jung

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[Signature]

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Barry Jung

Signature
[Signature]

Type or Print Name
Barry Jung

Signature
[Signature]

ZONING DESCRIPTION

Being all of lot NO. 633 and the easterly one-half of lot NO. 634 as shown on the plat entitled, "Addition to Overlea", which plat is recorded among the land records of Baltimore County in plat book J.W.S. NO. 2, folio 196, containing 8,700 square feet. Also known as 10 Maple Avenue and located in the 14th election district. Said property is located 240' northwest of Linden Ave.

78
96-81-SPH

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, in accordance with the Zoning Act and Regulations of Baltimore County, is hereby giving notice that a public hearing on the proposed special use permit for the property located at 10 Maple Avenue, 14th Election District, 6th Councilmanic District, Baltimore County, Maryland, will be held on the 14th day of December, 1995, at 11:00 A.M. in Room 112, Old Courthouse, 430 Washington Avenue, Towson, Maryland 21204. The hearing will be held in accordance with the provisions of the Zoning Act and Regulations of Baltimore County. The Zoning Commissioner is hereby giving notice that the proposed special use permit for the property located at 10 Maple Avenue, 14th Election District, 6th Councilmanic District, Baltimore County, Maryland, will be held on the 14th day of December, 1995, at 11:00 A.M. in Room 112, Old Courthouse, 430 Washington Avenue, Towson, Maryland 21204. 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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: September 14, 1995

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 78, 80, 93, 94, 97, 99, 103, 104, 109, 110, 112, and 113

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long

Division Chief: Carol L. Kinn

PK/JL

ITEMS/SZONE/TXTJML

TO: ZADM Joyce Watson DATE: 8/30/95

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: 8/28/95

Item #'s:

65
66
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68
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LETTY2/DEPRM/TXTSBP

1. No review information on bottom of petition form.
2. Need attorney's signature.

RWB:SW

247: 00 20 50

SEP 5 1999

ZADM

for *Bob Small*
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

WILLIAM R LEVASSEUR JR ESQ
BEACH CADIGAN & MARTIN
LOYOLA FEDERAL BLDG
22 W PENNSYLVANIA AVE STE 305
TOWSON MD 21204

Now, the steps necessary to file for a nonconforming use would require the completion of a Petition for Special Hearing. Once this document has been completed and accepted for filing by our office, a hearing would be held within approximately forty-five days. Fifteen days prior to this hearing, Baltimore County would post this property informing the community of the property owner's intentions with this land.

**AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT: 14
PROPERTY NO: 14-11-089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"**

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland.
2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.
3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.
4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.
5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.
6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931), at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillespie's niece, whose name I cannot directly recall.
7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.

8. I also recall the tenancy of one of the apartments in the subject property by a woman named Olga (last name not recalled) which lasted approximately 30 years, spanning the 1950's through the 1980's.

9. I would be willing to testify to the content of this Affidavit at a public hearing, if that was necessary.

I SOLEMNLY affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my knowledge information and belief and the content is based upon personal knowledge.

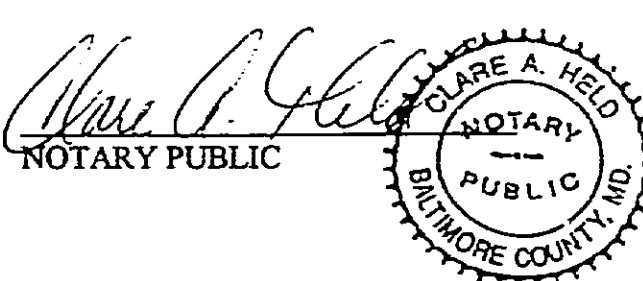
Ruth E. Lauman
RUTH E. LAUMAN

STATE OF MARYLAND, *Baltimore* CITY/COUNTY, TO WIT:

I HEREBY CERTIFY, that on this *20th* day of *January* 1995 before me, the subscriber, a Notary Public of the State of Maryland, in and for the City/County aforesaid, personally appeared RUTH E. LAUMAN, the party named in the above AFFIDAVIT and acknowledged the foregoing to be her act and deed.

AS WITNESS my and notarial seal.

My Commission Expires: *2-24-96*



RE: PETITION FOR SPECIAL HEARING*
10 Maple Avenue, NE/S Maple Avenue, 240'
NW of Linden Avenue, 14th Election
District, 6th Councilmanic

BEFORE THE
ZONING COMMISSIONER

OF
BALTIMORE COUNTY

Case No. 96-81-SPH

ENTRY OF APPEARANCE

Please enter the appearance of William R. Levasseur, Jr. and the law offices of Martin & Levasseur as counsel to Petitioner, Barry Jung, in the above captioned matter.

From this date forward, please send all notices and other important papers to undersigned counsel on behalf of Petitioner.

William R. Levasseur, Jr.
WILLIAM R. LEVASSEUR, JR.
602 Loyola Federal Building
22 W. Pennsylvania Avenue
Towson, Maryland 21204
321-0400
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 1995, a copy of the foregoing ENTRY OF APPEARANCE was mailed to Peter Max Zimmerman, People's Counsel for Baltimore County and Carole S. Demilio, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland, 21204.

William R. Levasseur, Jr.
WILLIAM R. LEVASSEUR, JR.

LAW OFFICES
BEACH, GADIGAN & MARTIN
SUITE 305
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

Mr. Arnold Jablon, Esq., Director of Zoning
Administration and Development
111 Chesapeake Avenue
Towson, Maryland 21204

RE: The Property Known As:
10 Maple Avenue, Election District: 14
Property No.: 14-11-089275
Lots 633-635 of Plat: "Addition to Overlea"

Dear Director Jablon:

This firm has taken over the administration of the Estate of Theresa E. Kummelmann (Baltimore County Estate No.: 80897). As part of the liquidation of the assets of this Estate, original counsel to the Estate, Frank Cannizzaro, Jr. (now retired) was successful in securing a contract of sale for the above identified real estate which forms the major portion of the Estate of the decedent. The Contract of Sale concerning the subject property was entered into on December 13, 1994 and a settlement date was scheduled for January 27, 1995. The settlement has now been postponed because the appraiser working for the mortgage lender, York Federal Savings & Loan, identified a non-conforming zoning use of the property.

The purpose of this letter is to request the assistance of your good office in addressing the concerns of the mortgage lender so that settlement can proceed in the very near future and this Estate can be settled, thus, leaving it to the ultimate purchaser to resolve the zoning discrepancies.

Ten E. Maple Street is a house built some seventy years ago. The house has been used for the majority of its life as a multi-unit dwelling and, according to York Federal's appraiser, Mr. Robert Gracie, such a use is non-conforming.

During the life of the decedent, Theresa Kummelmann, the house was occupied by the owner at the first level. There exists two floors above the first level which have both been converted into apartments and have been rented to various tenants over the years. It

LAW OFFICES
MARTIN & LEVASSEUR
SUITE 602
LOYOLA FEDERAL BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

TELEPHONE
(410) 321-0400
FAX
(410) 321-7240

October 24, 1995

Mr. Arnold Jablon
Zoning Adm. & Dev. Mgt.
Baltimore County Office Bldg.
MAIL STOP 1105
Towson, Maryland 21204

RE: Petition for Special Hearing
Barry Jung - Petitioner
Case No. 96-81-SPH

Dear Mr. Jablon:

Enclosed for filing please find an ENTRY OF APPEARANCE in the above captioned case.

Thank you for your attention to this matter.

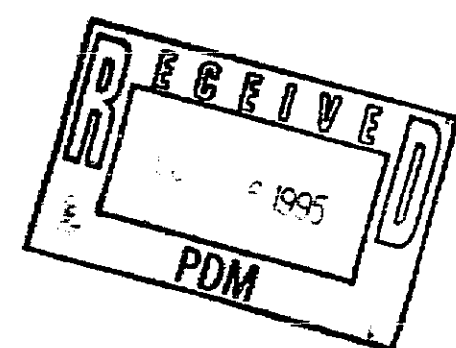
Very truly yours,

William R. Levasseur, Jr.
WILLIAM R. LEVASSEUR, JR.

WRL, JR./tk

Enclosure

cc: Mr. Barry Jung
Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire



Mr. Arnold Jablon
Director
Baltimore County Dept. of Permits and
Development Management
(Development Processing)
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

September 15, 1995

Ref: Case No. 96-81-SPH (Item 78)
10 Maple Avenue
NE/S Maple Avenue, 240' NW Linden Ave.
14th Election District - 6th Councilmanic
Legal Owner: Barry S. Jung

Dear Mr. Jablon:

With reference to the "Notice of Hearing" (copy attached) that I received regarding the above referenced property that has been scheduled for October 11, 1995, this letter is a formal request for a postponement and a "re-schedule" date due to the fact that a key witness in this matter is not available on October 11, 1995. She is very elderly and her schedule does not permit her to attend on "Wednesdays" or "Thursdays".

I have spoken with Gwen in your office concerning this problem and she stated that the next available date would not be until November, 1995. I sincerely request your indulgence in this matter and request that this hearing could be re-scheduled for November 3, 1995, if at all possible. This date is agreeable to all parties concerned and I would appreciate it very much if this could be arranged. If this date is not convenient with your office, then November 7th, 1995, (or any other Tuesday or Friday) would be agreeable.

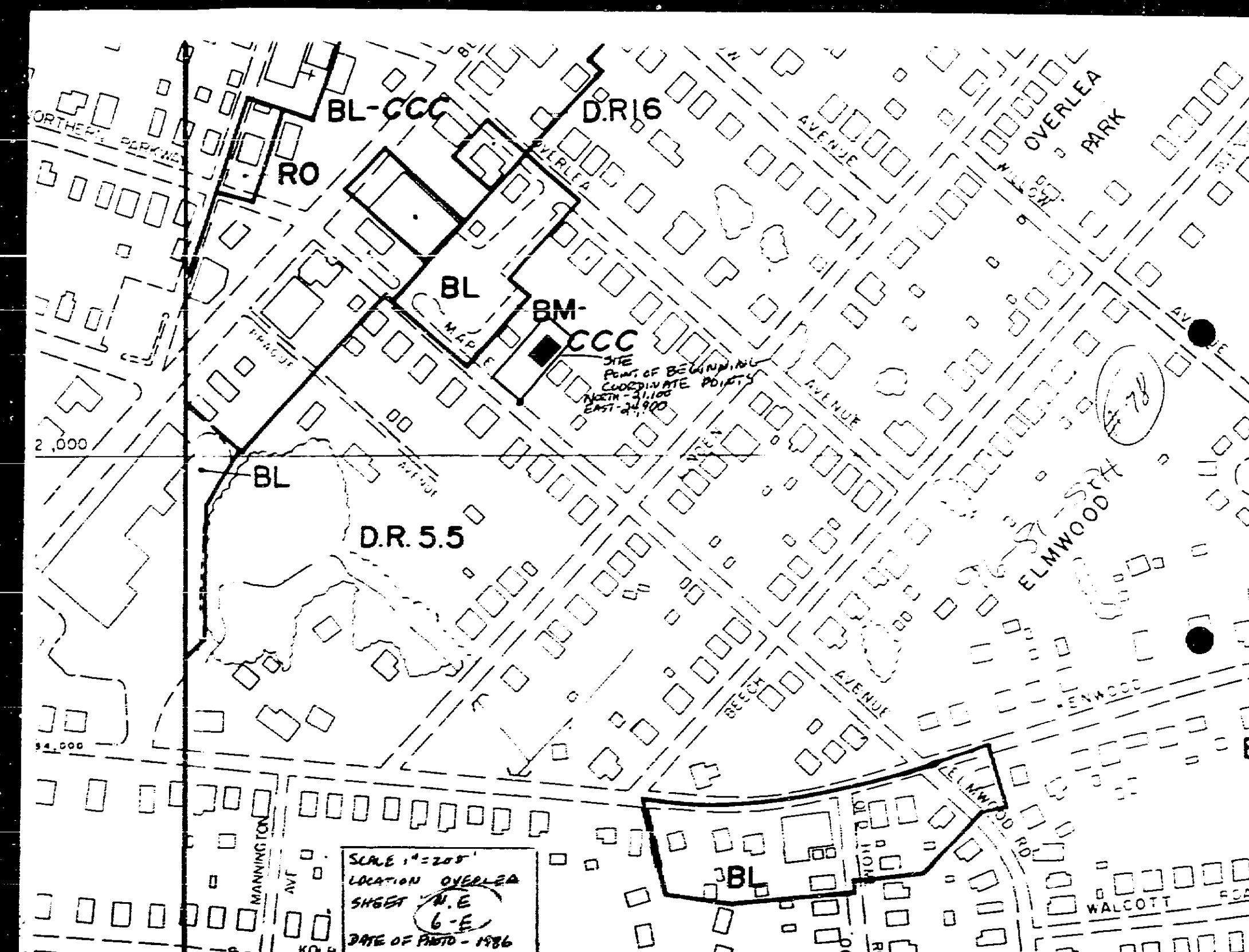
Please advise me at your convenience if this or another date mentioned would be suitable for you. If you have any questions, please do not hesitate to contact me at 410-866-5890. Thank you very much for your kind consideration.

Sincerely,
Barry S. Jung
Barry S. Jung
7616 Blue Grass Road
Baltimore, MD 21237

RECEIVED
SEP 21 1995

ZADM

attachment



PLAN TO ACCOMPANY SPECIAL HEARING PETITION 8/10/75

PROPERTY ZONED: D.R. 5.5
N.W. ELECTION DISTRICT, 6th COUNCIL MANUE DISTRICT
PROPERTY: GRASS AREA - 60' x 125' - 8700 SQ. FT.
P.A.R. 1782-8700-319
A.O.S. NONE REQUIRED
OWNER: BARRY JUNG
7416 BLUEGRASS RD
BALTO. MD 21237
DEED: 1107/233

96-81-5PH

I hereby certify that I have made a survey of this lot for the purpose of locating the improvements thereon and that they are located as shown.

George D. Lauer
REG. NO. 8012

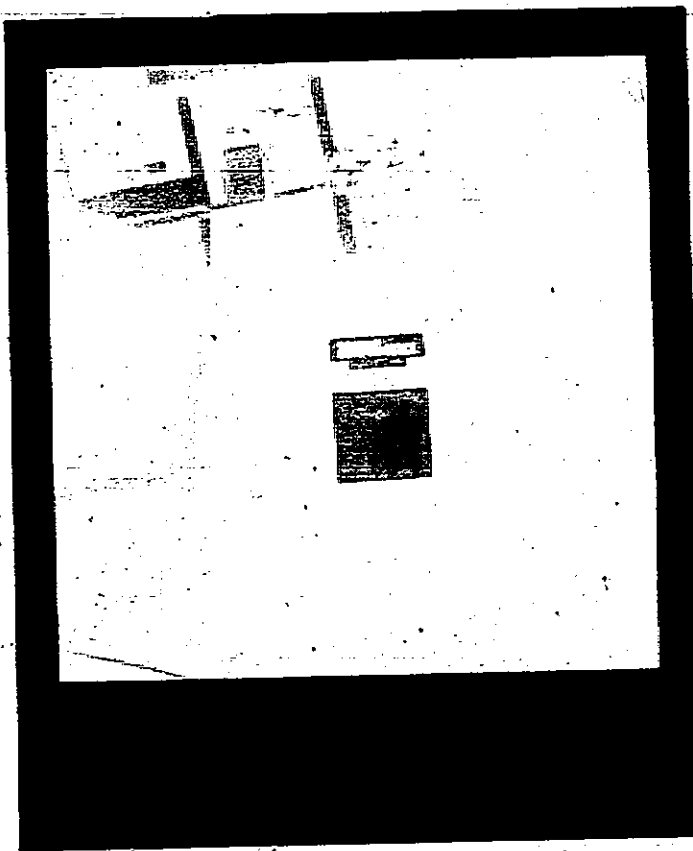
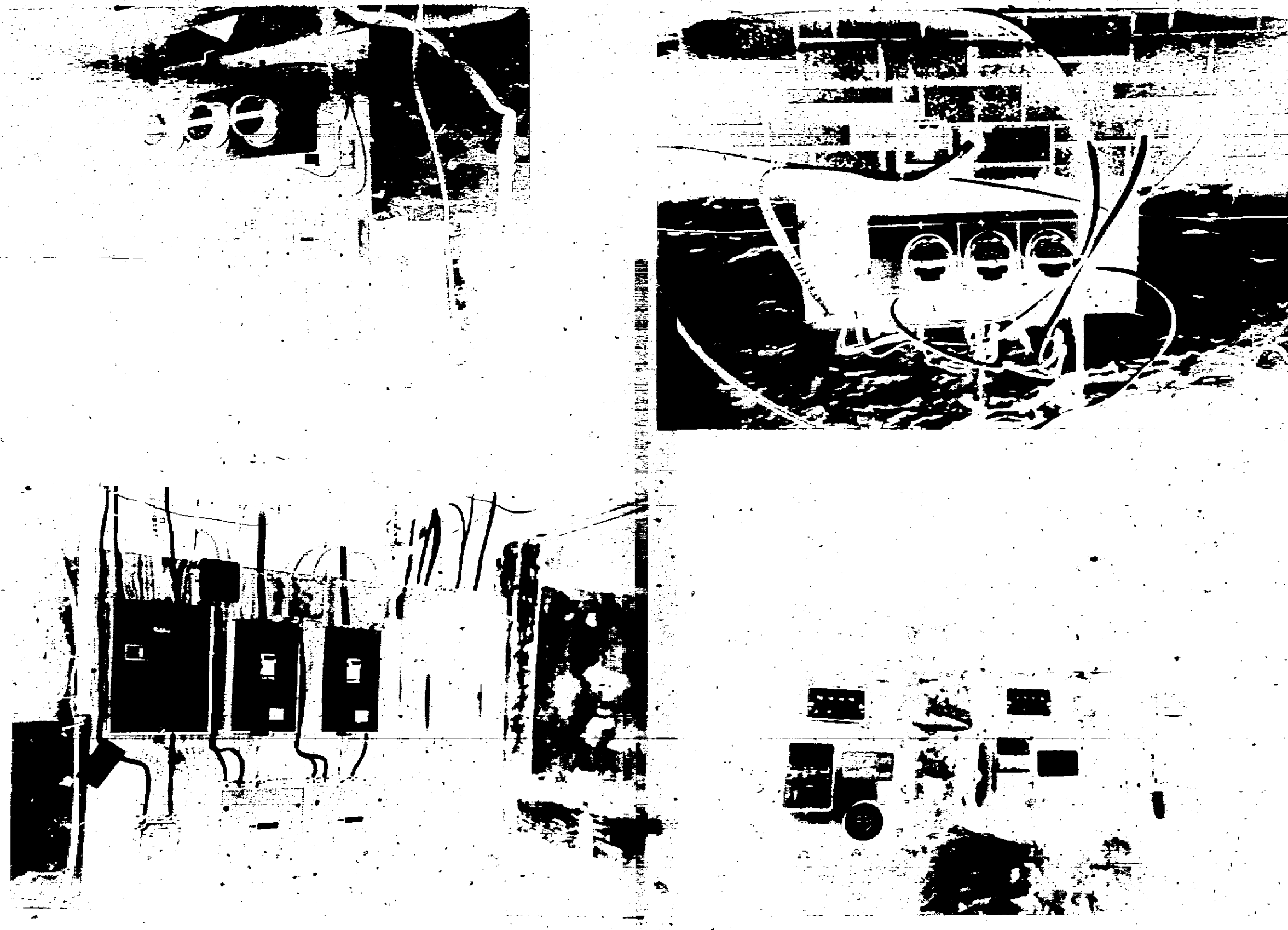
SCALE 1" = 30'
DATE 11/10/75
JOB No. 9501

LOCATION SURVEY
10 E. Maple Ave. - 14th District - Balto. Co., MD

GENERAL SURVEYING CO.
LAND & TOPOGRAPHIC SURVEYS
P.O. Box 43351
Baltimore, MD 21236

NOTE: This plat is not intended for use in establishing property lines.

Petitioner's
Exhibit 2A-2D
96-81-5PH



Pet Ex #3

AFFIDAVIT OF
RUTH E. LAUMAN
CONCERNING THE PROPERTY KNOWN AS:
10 MAPLE AVENUE
ELECTION DISTRICT 14
PROPERTY NO. 1411.089275
LOTS 633-635 OF PLAT: "ADDITION TO OVERLEA"

1. I am over eighteen years of age and otherwise competent to testify in the Courts of Maryland
2. I am a resident of 7 Maple Avenue, Baltimore County, Maryland 21206 which is across the street and one house removed to the west of the subject property identified above.
3. I have resided at 7 Maple Avenue continuously and without interruption since 1920 or 1921.
4. I was born on May 16, 1919 and my parents moved to 7 Maple Avenue sometime after my 1st Birthday in either late 1920 or early 1921.
5. I have known the subject property to be used as a two apartment dwelling along with an owner occupied first level for my entire life.
6. My first clear memory of tenants residing in 10 Maple Avenue dates back to my grade school days when I was between 10 and 12 years of age (1929 to 1931); at that time I remember playing with a schoolmate named Jack Gillespie whose parents and older brother, lived in the subject property. At that time the second floor was rented to Mrs. Gillespie's niece, whose name I cannot directly recall.
7. Over the years, since at least 1935 when the Kummelmann's (Harry and Josephine) purchased the home, the subject property has been occupied by tenants in both apartments continuously and without interruption, along with the owner occupying the first level and that use continues through to today and upon the execution date of this Affidavit.